

<p>The Industry Association of Building and Property Inspectors in WA Inc – Inspect WA</p>		
<p>Position Paper 03.2019 Pre Purchase Building Inspection Report Clarity</p>		
Subject	<p>This position paper attempts to reduce the potential confusion and disputes that relate to Pre Purchase Building Inspections issued by Association Members.</p>	
Association Position	<p>Pre Purchase Building Inspection reports issued by Members must clearly articulate if a major defect is identified AND whether or not that Major Defect is a Structural Defect within the intended definition of Structural Defects as envisaged by AS 4349.1 Appendix A AND whether those defects relate directly to the property's residential building.</p>	
Date Preparation Commenced	July 2019	
Date Provisional Approval by Committee for Release to Members for Comment		
Final Approval by Committee and Release to Members		
Why was the Paper Released	<p>In WA the Real Estate Institute of WA ("REIWA") provides its member Agents a pre purchase building inspection Clause entitled Australian Standard Pre-Purchase structural inspection clause. The Clause is widely used in Offer to Purchase Contracts for residential property purchase contracts.</p> <p>While the Clause refers to AS 4349.1 there are some key differences which present industry Stakeholders with some challenges which has led to confusion and or dispute.</p> <p>Concerns within the Association were raised that the lack of clarity with many pre purchase building inspection reports in relation to whether or not identified Major defects are structural defects and or whether the Major defects relate to the residential building such that the REIWA clause can be triggered.</p> <p>It is hoped that by addressing this area of confusion that Standing of Association Building Inspectors Members will be elevated within the broader Industry.</p>	
Key Definitions from AS 4349.1	AS 4391 Major defect	A defect of sufficient magnitude where rectification has to be carried out in order to avoid unsafe conditions, loss of utility or further deterioration of the property.
	Structural defect	Fault or deviation from the intended structural performance of a building element.

	2.3 Scope of Inspection 2.3.1	Where the client or other interested party requires only assessment of the structure of the property, the purpose of the inspection shall be limited to that described in Appendix A.
	AS 4349.1 Appendix A Scope of Inspection	<p>The inspection shall comprise visual assessment of accessible areas of the property to identify major defects to the building structure and to form an opinion regarding the general condition of the structure of the property.</p> <p>NOTE: The structural report should not contain any assessment or an opinion regarding the following:</p> <ul style="list-style-type: none"> (a) Any non-structural element, e.g., roof plumbing and roof covering, general gas, water and sanitary plumbing, electrical wiring, partition walls, cabinetry, windows, doors, trims, fencing, minor structures, non-structural damp issues, ceiling linings, floor coverings, decorative finishes such as plastering, painting, tiling, etc. (b) An assessment of any aspect or component of the property that cannot be seen or that requires testing and/or measurement to determine soundness. (c) Any area or item that was not, or could not be, observed by the inspector. (d) General maintenance other than that which is deemed to be directly related to the ongoing structural performance of the property. (e) Serviceability damp defects such as condensation, rising damp, lateral damp, falling damp should only be assessed and reported on where structural damage has occurred, is occurring, or may occur (e.g., fungal rot) significant spalling of masonry or concrete structural elements, significant fretting or mortar, rusting of primary structural elements. Stormwater drainage and surface water defects commonly cause or exacerbate foundation instability and these issues should be assessed and reported on where relevant.
	Areas To Be Inspected Section 3 AS 4349.1	<p>The following areas shall be inspected where applicable:</p> <ul style="list-style-type: none"> (a) The interior of the building. (b) The roof space. (c) The exterior of the building.

		(d) The sub-floor space. (e) The roof exterior. (f) The property within 30 m of the building subject to inspection.
Key Definitions REIWA Australian Standard pre-purchase structural inspection condition	Structural Defect	"Structural Defects" means a fault or deviation from the intended structural performance of a building element and is a major defect to the building structure of sufficient magnitude where rectification has to be carried out in order to avoid unsafe conditions, loss of utility, or further deterioration of the building structure. Structural defects do not include any non-structural element, e.g., roof plumbing and roof covering, general gas, water and sanitary plumbing, electrical wiring, partition walls, cabinetry, windows, doors, trims, fencing, minor structures, non-structural damp issues, ceiling linings, floor coverings, decorative finishes such as plastering, painting, tiling etc, general maintenance, or spalling of masonry, fretting or mortar rusting.
	Written before that provides an assessment of any Structural Defects	If the Report identifies Structural Defects to the Property's residential building
Key Issues for Consideration	<ol style="list-style-type: none"> Most retail clients do not read the REIWA Australian Standard Pre-Purchase structural inspection clause when they sign a residential property purchase contract. Many Real Estate Agents do understand or fully disclose the limitations of the REIWA clause to clients. Many buyers, if they had a full and frank understanding of AS 4391.1 Appendix 1 would not accept the substantial limitations of that clause. Most property buyers when booking a Pre Purchase Building Inspection do not request a structural only inspection (AS 4391.1 Appendix 1). Unlike the majority of other States in Australia WA property buyers are not protected by a "cooling off" period for residential property purchase contracts. AS4349.1 requires all property within 30 m of the building subject to inspection, to be inspected. The REIWA clause sole focus is on the residential building. There is a fundamental mismatch between AS 4349.1 and the REIWA clause such that a structural defect beyond the residential building needs to be identified within the scope of AS 4349.1 but is outside of the REIWA clause which only talks to structural defects on the residential building. AS4349.1 Appendix A requires the presence or otherwise of defects shall only be relevant when such defects relate to the structural condition of the building. The challenge here is when there is more than one building or structure on the property. Property Buyers almost never instruct a Building inspector to inspect a property under the strict requirements of AS 4349.1 Appendix A The REIWA Australian Standard Pre-Purchase structural 	

	<p>inspection clause broadly mirrors the requirements of AS 4349.1. It is specific in that the clause is only triggered when written report provides an assessment of any Structural Defects of a property.</p> <p>7. The REIWA clause only refers to Structural Defects and not Major Defects as per AS 4349.1</p> <p>8. There is the possibility that an Inspector may identify a Major defect which is not a Structural Defect and or that Major defect may be on a building or structure beyond the residential building. Given the potential misalignment between AS 4349.1 and the REIWA clause it is recommended that all Association Member Building Inspections reports clearly articulate:</p> <ul style="list-style-type: none"> a. Whether a Major Defect is a Structural Defect as defined by AS 4349.1 Appendix A or a Major Defect beyond the Definition of AS 4349.1 Appendix A b. Whether a Major Defect is a Structural Defect as defined by AS 4349.1 Appendix A on the property's residential building or the a Major Defect beyond the residential building but still on the residential property.
Additional Observations	1.
Disclaimer	1. This document is not intended to be Legal Advice. The document is only intended for Members of. The Industry Association of Building and Property Inspectors in WA. Where appropriate, readers of the document should seek their own independently legal advice.

Signed Chairman

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